

Notice of Allowability

Application No.

10/091,710

Examiner

Andrew T Piziali

Applicant(s)

LIN, JUEI-HUA

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1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 9/10/2004.
2. ☒ The allowed claim(s) is/are 1-4.
3. ☒ The drawings filed on 3/5/2002 & 10/16/2003 (Figures 5 & 11) are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
2. Authorization for this examiner's amendment was given in a telephone interview with Louis DelJuidice on 8/6/2004.

Amend the application as follows:

Cancel claims 5-32.

Allowable Subject Matter

3. Claims 1-4 are allowed.
4. The following is an examiner's statement of reasons for allowance:

The closest prior art is USPN 4,944,986 to Zuel and USPN 5,120,605 to Zuel et al. Both of the cited patents disclose a glass product substantially identical to the currently claimed glass product, with the exception that the prior art does not mention if the skeletized structure density is about 50 to about 70 skeletized structures per 200 nanometers or if the skeletized structure is about 100 to about 400 angstroms in diameter.

As evidenced by Exhibit A in the after final response filed on 10/16/2003, the skeletized structure density is a result of the etching potency. Although the prior art discloses a broad etching potency range of between +12 and -12, the only potency exemplified by the prior art is a potency of -6. In the prior art examples, wherein an etching potency of -6 is utilized, the

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skeletized structure density is about 30 to about 40 skeletized structures per 200 nanometers. In comparison, the current applicant claims a skeletized structure density of about 50 to about 70 skeletized structures per 200 nanometers. As evidenced in the declaration by inventor, the currently claimed glass product with a skeletized structure density of about 50 to about 70 skeletized structures per 200 nanometers requires a cleaner with a potency of only 1/20th the potency necessary to clean the glass product taught by the prior art possessing a skeletized structure density of about 30 to about 40 skeletized structures per 200 nanometers. The unexpected results are not taught or suggested by the prior art.

In order for the prior art to anticipate the current claims, the claimed subject matter must be disclosed with sufficient specificity to constitute an anticipation under the statute. Although what constitutes a “sufficient specificity” is fact dependent, if the claims are directed to a narrow range, and the reference teaches a broad range, and there is evidence of unexpected results within the claimed narrow range, it may be reasonable to conclude that the narrow range is not disclosed with “sufficient specificity” to constitute an anticipation of the claims. The unexpected results may also render the claims unobvious. In this case the claims are directed to a narrow range (etching potency of -8 to -8^{1/4}), while the reference teaches a broad range (etching potency of +12 to -12). There is also evidence of unexpected results within the claimed narrow range (much easier to clean). Therefore, the narrow range is not disclosed with “sufficient specificity” to constitute an anticipation of the claims and the unexpected results evidenced by the current applicant rebut *prima facie* obviousness.

“Evidence of unobvious or unexpected advantageous properties, such as superiority in a property the claimed compound shares with the prior art, can rebut *prima facie* obviousness.

"Evidence that a compound is unexpectedly superior in one of a spectrum of common properties

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. . . can be enough to rebut a *prima facie* case of obviousness." No set number of examples of superiority is required. *In re Chupp*, 816 F.2d 643, 646, 2 USPQ2d 1437, 1439 (Fed. Cir. 1987) (Evidence showing that the claimed herbicidal compound was more effective than the closest prior art compound in controlling quackgrass and yellow nutsedge weeds in corn and soybean crops was sufficient to overcome the rejection under 35 U.S.C. 103, even though the specification indicated the claimed compound was an average performer on crops other than corn and soybean.). See also *Ex parte A*, 17 USPQ2d 1716 (Bd. Pat. App. & Inter. 1990) (unexpected superior therapeutic activity of claimed compound against anaerobic bacteria was sufficient to rebut *prima facie* obviousness even though there was no evidence that the compound was effective against all bacteria)." See MPEP 716.02(a).

5. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew T Piziali whose telephone number is (571) 272-1541. The examiner can normally be reached on Monday-Friday (8:00-4:30).

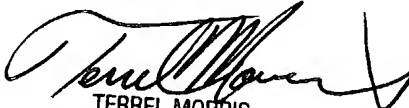
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

atp

G-18 9/15/04
ANDREW T. PIZIALI
PATENT EXAMINER


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